

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS BELL TELEPHONE COMPANY (SBC Illinois),)	
Petitioner,)	
)	04-0441
Petition for Variance Pursuant to)	
Part 735 of the Commission's Rules)	

DRAFT ORDER OF SBC ILLINOIS

By the Commission:

I. Procedural History

On June 21, 2004, Illinois Bell Telephone Company ("SBC Illinois") filed with the Illinois Commerce Commission ("Commission") a petition seeking variance from the provisions of 83 Ill. Admin. Code Part 735.70(b)(1)(G) requiring it to provide detailed information about toll calls included on its customer bills.

Pursuant to due notice, hearings were held in this matter on July 13, August 12, and September 20, 2004, before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois. Appearances were entered by counsel on behalf of SBC Illinois and by a member of the Office of General Counsel of the Commission on behalf of the Commission Staff ("Staff"). The People of the State of Illinois ("Illinois AG") also filed a petition to intervene, which was granted on August 12, 2004.

Mr. David F. Becker, Director, Billing Product Manager for SBC Illinois, presented testimony and exhibits in support of the Petition. Ms. Joan S. Howard, a Consumer Program Analyst in the Consumer Services Division of the Commission, submitted a Verified Statement and testified on behalf of the Staff. The Illinois AG presented no witnesses. At the conclusion of the September 20 hearing, the record was marked "Heard and Taken."

SBC Illinois is a corporation organized under the laws of the State of Illinois and is a telecommunications carrier within the meaning of 220 ILCS 5/13-202. It owns and operates telecommunications facilities, and provides intrastate local exchange and intraLATA interexchange telecommunications service, in its service area within the state.

SBC Illinois is a "telephone company" under the jurisdiction of the Commission within the meaning of 83 Ill. Admin. Code Sec. 735.30 of the

"Procedures Governing the Establishment of Credit, Billing, Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois," 83 Ill. Admin. Code Part 735.

II. Parties' Positions

A. SBC Illinois' Position

SBC Illinois seeks a variance from the toll billing provisions in 83 Ill. Admin. Code Section 735.70(B)(1)(G) in order to implement a billing option under which certain customers could choose to have information about toll calls suppressed from their bills. In particular, interested residential and business customers who have purchased packages that include unlimited toll calling could elect to stop receiving detailed information about calls included in those calling packages.

Mr. Becker testified that, under the current SBC Illinois bill format, detailed information on local toll and long distance calls is presented, including the date and time of the call, the place called (the destination), the telephone number called, the length of the call in minutes, and the charge (collectively, "call detail"). Under this format, the charge for each call included as a part of an unlimited plan is shown as \$0.00 because there are no per-call charges that apply. SBC Illinois Ex. 1, Schedule 1, provides an example of the current billing format for unlimited calling plans. The current format does not designate which calls are local toll, as opposed to long distance, calls. Mr. Becker explained that, unless a customer knew the boundaries of her local toll calling area, the customer probably would be unable to determine exactly how many calls of each type she made in a given month.

Mr. Becker also testified that, under SBC Illinois' proposed billing format, customers with an unlimited calling plan who choose to have their call detail suppressed will receive, as part of their bill each month, a usage summary, giving the total number of calls made and the total number of minutes used during the preceding billing period. Only zero-rated calls (i.e., calls for which the charge is shown as \$0.00) that are part of the unlimited plan will have the call detail suppressed and be included in the summary. Local toll or long distance ("toll/LD") calls that are outside the customer's unlimited plan, such as international calls or credit card calls, will continue to be displayed on the bill with all of the detail that is displayed today. SBC Illinois Ex. 1, Schedule 2, provides an example of the billing format that SBC Illinois proposes to introduce for customers electing suppression of call detail.

Mr. Becker explained that those customers with unlimited calling plans that do not elect to suppress their toll/LD call detail will continue to receive the listing of the calls, as they do today, even though each call will be zero-rated. He

also testified that a customer who chooses toll/LD suppression could change this election at any time and, on a going forward basis, receive the call detail associated with her unlimited toll/LD calls. A customer who has selected SBC Long Distance as her interexchange carrier may also ask SBC to retrieve and provide toll/LD detail for the prior 24-month period (at least) in the event she wishes to see the calls that were made in a particular month. There would be no additional charge for requesting previous bills with toll/LD usage in detailed format, and there would be no charge for turning the detail back on at any time should the customer request it.

According to Mr. Becker, SBC developed the toll suppression option as a result of customer research it conducted throughout its service territory, including focus groups held in Chicago. This research revealed that customers prefer a bill that is simple and is as close to one page as possible. The surveyed customers indicated that, to achieve a shorter bill, they were willing to forego the call detail for calls included in an unlimited calling plan.

Mr. Becker explained that the suppression option would provide benefits both to customers and to SBC Illinois. Customers who do not want to receive their call detail would benefit because they could choose the suppression option and no longer receive the detail. SBC Illinois would benefit because having the suppression option available would allow it to produce a shorter bill and thus to satisfy customers who want such a bill.

Section 735.70(b)(1)(G) requires local carriers that include charges for toll calls on their bills to itemize those calls. The section also lists specific information about toll calls that the carriers must include, such as the date and time of the call, the length of the call, the telephone number called, and the destination called. Mr. Becker testified that a variance from Section 735.70(b)(1)(G) would be necessary for SBC Illinois to offer the suppression option because customers selecting that option would no longer receive the specified call detail information.

Mr. Becker explained that SBC had to seek a rule waiver to offer the suppression option in several other states in its service territory and that the utility commissions in those states (Kansas, Ohio, Oklahoma, and Wisconsin) had approved the waiver requests. He added that California amended its Public Utilities Code to require local exchange carriers to give customers with unlimited calling plans the option of deciding whether to receive their call detail. He also testified that Cingular Wireless currently provides its customers with unlimited calling plans the option of suppressing the itemization of calls.

SBC Illinois framed its variance request with regard to unlimited calling plans that customers purchase from SBC Illinois, including SBC Long Distance toll plans for which SBC Illinois provides billing under a Billing and Collection ("B&C") agreement. Mr. Becker stated, however, that SBC Illinois was willing to

offer call detail suppression to its end-user customers who use an interexchange carrier (“IXC”) other than SBC Long Distance, as long as the following conditions exist: 1) the IXC has a B&C agreement with SBC Illinois through which the IXC bills its customers; 2) the IXC offers unlimited calling plans to its customers and wants to offer those customers the option of suppressing call detail; 3) the IXC agrees to retrieve and provide, for customers who request it, past toll/LD detail for at least 24 months of previous bills; and 4) the variance granted by the Commission is phrased broadly enough to be applicable to SBC Illinois’ billing of unlimited calling plans on behalf of SBC Long Distance or any other IXC.

B. Staff’s Position

Ms. Howard, in her Verified Statement on behalf of Staff, stated that Staff had no opposition to SBC Illinois’ petition, as long as SBC Illinois was willing to make the suppression option available to any of its local service customers, regardless of the customer’s IXC or toll carrier. Ms. Howard also sought assurance that customers could obtain 24 months of past toll detail upon request. Because SBC Illinois indicated its agreement with Staff’s conditions, Staff recommended that the Commission grant the variance request.

C. Illinois AG’s Position

The Illinois AG took the position that the Commission should approve the variance request only if SBC Illinois were required to modify its bill format to provide specific usage information. In particular, the Illinois AG asked that SBC Illinois bills that suppress call detail include a usage summary in which 1) minutes for local toll or intraLATA toll calls are separately displayed from the total minutes and calls for interLATA long distance usage; 2) the charges for services provided by SBC Long Distance are displayed alongside the minutes and number of intraLATA and interLATA calls; and 3) the charges for local calls are displayed separately from the SBC Long Distance charges.

III. Commission Analysis and Conclusions

Section 735.50 requires that the Commission, before granting a variance, consider three criteria: 1) whether the rule from which a variance is requested is mandated by statute; 2) whether anyone would be harmed by granting the variance; and 3) whether the rule from which a variance is requested is unduly burdensome. SBC Illinois’ petition meets each of these criteria.

None of the participants in this docket – SBC Illinois, Staff, or the Illinois AG – has identified any statutory requirement to present call detail on a

customer's bill. The Commission also knows of no such requirement. Accordingly, the first criterion is satisfied.

The primary dispute between the parties relates to the second criterion. The Illinois AG contends that customers would be harmed under the new SBC Illinois bill format because they would not have information that might be necessary to understand their bills and to make appropriate decisions about telecommunications service.

The Commission concludes that the suppression of call detail information sought by the variance would not create any meaningful barrier to customer decision-making. First, suppression of call detail would be available only to customers with unlimited toll calling plans, so that only a subset of customers would be eligible for suppression if the waiver were granted. Second, suppression would be optional, so that only customers with unlimited calling plans who choose not to receive the call detail would experience any effect if the waiver were granted. Third, any conceivable harm that a customer choosing suppression might experience would be entirely self-inflicted, as the customer herself would necessarily have to choose the call detail suppression option. Finally, any possible harm from the loss of toll detail would be easily remedied, since a customer who had requested suppression could simply ask SBC Illinois to provide the detail from prior months or to provide the detail going forward. If a customer changes her mind about the need for toll detail, she does not suffer any meaningful harm by having to call SBC Illinois and advise it of her new position.

Moreover, it appears that the Illinois AG overstates the value of the call detail information that would be suppressed under the optional bill format. The call detail provided with the current bill format includes the number and destination called, but it does not designate whether a given call is local toll or long distance. (Indeed, subsection 735.70(b)(1)(G) contains no requirement that toll calls be categorized on the bill as local toll or long distance.) The record indicates that most customers would be unable to determine with certainty which of their intrastate toll calls in a given month were local toll calls versus interLATA long distance calls. As a result, to the extent that the new bill format takes any information away from customers, that information would not have a meaningful impact on customer decision-making. In summary, the second criterion is satisfied because no party would be harmed if SBC Illinois offered the option of suppressing call detail.

Finally, Section 735.70(b)(1)(G) is burdensome, in that it precludes SBC Illinois from offering billing innovations such as the suppression of call detail. Section 735.70(b)(1)(G) assumes that a customer will be charged separately for each toll call she makes and thus might want details about each call to determine if she has been billed correctly. Now that many telecommunications carriers, including SBC Illinois, offer calling plans that include unlimited calling for a flat monthly rate, the average customer subscribing to such a plan may have little

interest in details about particular calls because there is no separate charge for calls included in the plan. The code provision thus is unduly burdensome, in this particular situation, because it prevents SBC Illinois from offering the toll suppression option to interested customers. The third criterion is satisfied.

IV. Findings and Ordering Paragraphs

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) SBC Illinois is engaged in the business of rendering telecommunications service and is a telecommunications carrier as defined in Section 13-202 of the Public Utilities Act;
- (2) the Commission has jurisdiction over SBC Illinois and the subject matter of this proceeding;
- (3) the recitals of fact set forth in the prefatory portion of this order are supported by the evidence of record and are hereby adopted as findings of fact;
- (4) the provisions in 83 Ill. Admin. Code 735.70(b)(1)(G) from which variance is sought are not statutorily mandated;
- (5) no party will be injured by the granting of the variance;
- (6) the application of Section 735.70(b)(1)(G) would be unreasonable and unnecessarily burdensome in this particular situation;
- (7) the granting of a variance to allow SBC Illinois to offer suppression of toll call detail to interested residential and business customers who have unlimited toll calling plans is reasonable and consistent with the public interest;
- (8) approval should be granted to SBC Illinois for a variance from the provisions in 83 Ill. Admin. Code 735.70(b)(1)(G) that require itemization of toll calls for customers who have unlimited calling plans;
- (9) the variance is applicable to SBC Illinois' billing of toll calls under an unlimited toll calling plan for any interexchange carrier, pursuant to a billing and collection agreement and

subject to the conditions described herein regarding the availability of past call detail;

- (10) the variance should be granted on a permanent basis, to remain in effect until the Commission ceases or suspends authority for the variance in a docket initiated on its own motion or pursuant to a complaint;
- (11) subject to the terms and conditions of this Order, the prayer of the petition may be reasonably granted and the public will be inconvenienced thereby; and
- (12) any objections, motions or petitions filed in this proceeding, which remain undisposed of should be disposed of in a manner consistent with the ultimate conclusions herein contained.

IT IS THEREFORE ORDERED that SBC Illinois is granted a variance from the provisions in 83 Ill. Admin. Code 735.70(b)(1)(G) requiring itemization of all toll calls for all customers.

IT IS FURTHER ORDERED that the variance granted above is applicable only to business and residential customers of SBC Illinois who have subscribed to an unlimited toll calling plan and who have agreed to have their call detail suppressed.

IT IS FURTHER ORDERED that the variance is granted on a permanent basis, to remain in effect until the Commission ceases or suspends authority for the variance in a docket initiated on its own motion or pursuant to a complaint.

IT IS FURTHER ORDERED that any objections, motions, or petitions not previously disposed of are hereby disposed of consistent with the findings of this Order.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this ____th day of December, 2004.

(SIGNED) EDWARD C. HURLEY

Chairman